

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

JOHN DERRICK JOHNSON,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO. 3:05-CV-850-F
) [WO]
)
DEBBIE BURT, et al.,)
)
Defendants.)

RECOMMENDATION OF THE MAGISTRATE JUDGE

On September 13, 2005, John Derrick Johnson [“Johnson”], a county inmate, filed this 42 U.S.C. § 1983 action. Subsequently, and prior to the defendants filing a response to the complaint, Johnson filed a motion to dismiss this case.

Upon consideration of Johnson’s motion to dismiss, the court concludes that the motion is due to be granted. Furthermore, since the defendants have filed no response addressing the claims raised in the plaintiff’s complaint, the court discerns that this case should be dismissed without prejudice. *See Rule 41(a)(1), Federal Rules of Civil Procedure.*

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that Johnson’s motion to dismiss be granted and that this case be dismissed without prejudice. It is further ORDERED that on or before December 27, 2005 the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge’s Recommendation to which the party is objecting. Frivolous, conclusive

or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). See *Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). See also *Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, en banc), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 13th day of December, 2005.

/s/Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE